

## Federal Acquisition Regulation

53.301-1438

## 53.301-1438 Settlement Proposal (Short Form).

SETTLEMENT PROPOSAL (SHORT FORM)				OMB No.: 9000-0012 Expires: 06/30/2004			
<small>Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVA), Regulatory and Federal Assistance Publications Division, GSA, Washington, DC 20405.</small>							
<small>For Use by a Prime Contractor or Subcontractor in Settlement of a Fixed Price Terminated Contract When Total Charges Claimed Are Less Than \$10,000.</small>							
<small>THIS PROPOSAL APPLIES TO (Check one)</small> <input type="checkbox"/> A PRIME CONTRACT <input type="checkbox"/> WITH THE GOVERNMENT <input type="checkbox"/> SUBCONTRACT OR PURCHASE ORDER NO.(S)			<small>COMPANY (Prime or Subcontractor)</small>				
<small>CONTRACTOR WHO SENT NOTICE OF TERMINATION</small> NAME			STREET ADDRESS				
ADDRESS (Include ZIP Code)			CITY AND STATE (Include ZIP code)				
If moneys payable under the contract have been assigned, give the following: NAME OF ASSIGNEE			NAME OF GOVERNMENT AGENCY		GOVERNMENT PRIME CONTRACT NO.		
ADDRESS (Include ZIP Code)			CONTRACTOR'S REFERENCE NO.		EFFECTIVE DATE OF TERMINATION		
<b>SECTION I - STATUS OF CONTRACT OR ORDER AT EFFECTIVE DATE OF TERMINATION</b>							
PRODUCTS COVERED BY TERMINATED CONTRACT OR PURCHASE ORDER (a)		PREVIOUSLY SHIPPED AND INVOICED (b)	FINISHED ON HAND		UNFINISHED OR NOT COMMENCED		TOTAL COVERED BY CONTRACT OR ORDER (g)
			PAYMENT TO BE RECEIVED THROUGH INVOICING (c)	INCLUDED IN THIS PROPOSAL (d)	TO BE COMPLETED (Partial termination only) (e)	NOT TO BE COMPLETED (f)	
		QUANTITY					
		\$					
		QUANTITY					
		\$					
		QUANTITY					
		\$					
<b>SECTION II - PROPOSED SETTLEMENT</b>							
NO.	ITEM (Include only items allocable to the terminated portion of contract)					AMOUNT OF CHARGE (\$)	
1	CHARGE FOR ACCEPTABLE FINISHED PRODUCT NOT COVERED BY INVOICING (from SF 1428)						
2	CHARGE FOR WORK-IN-PROGRESS, RAW MATERIAL, ETC. ON HAND (from SF 1428)						
3	OTHER CHARGES INCLUDING PROFIT AND SETTLEMENT EXPENSES						
4	CHARGES FOR SETTLEMENT(S) WITH SUBCONTRACTORS						
5	GROSS PROPOSED SETTLEMENT (Sum of Items 1 thru 4)						
6	DISPOSAL AND OTHER CREDITS (from SF 1424, Item 27, Col. 3)						
7	NET PROPOSED SETTLEMENT (Item 5 less 6)						
8	ADVANCE, PROGRESS, AND PARTIAL PAYMENTS						
9	NET PAYMENT REQUESTED (Item 7 less 8)						
<small>List your inventory on SF 1428 and attach a copy thereto. Retain for the applicable period specified in the prime contract all papers and records relating to this proposal for future examination.</small>							
<small>GIVE A BRIEF EXPLANATION OF HOW YOU ARRIVED AT THE AMOUNTS SHOWN IN ITEMS 3, 4, 6, AND 7</small>							
<small>(Where the space provided for any information is insufficient, continue on a separate sheet.)</small>							
<small>I CERTIFY that the above proposed settlement includes only charges allocable to the terminated portion of the contract or purchase order, that the total charges (Item 5) and the disposal credits (Item 6) are fair and reasonable, and that this proposal has been prepared with knowledge that it will, or may, be used directly or indirectly as a basis for reimbursement under a settlement proposal(s) against agencies of the United States.</small>					NAME OF YOUR COMPANY		
					BY (Signature of authorized official)		
					TITLE		
					DATE		
<small>AUTHORIZED FOR LOCAL REPRODUCTION Previous edition is not usable</small>							
<small>STANDARD FORM 1438 (REV. 5/2004) Prescribed by GSA-FAR (48 CFR) 53.249(a)(5)</small>							

## INSTRUCTIONS

1. This settlement proposal should be submitted to the contracting officer, if you are a prime contractor, or to your customer, if you are a subcontractor. The term contract as used hereinafter includes a subcontract or a purchase order.

2. Proposals that would normally be included in a single settlement proposal, such as those based on a series of separate orders for the same item under one contract should be consolidated wherever possible, and must not be divided in such a way as to bring them below \$10,000.

3. You should review any aspects of your contract relating to termination and consult your customer or contracting officer for further information. Government regulations pertaining to the basis for determining a fair and reasonable termination settlement are contained in Part 49 of the Federal Acquisition Regulation. Your proposal for fair compensation should be prepared on the basis of the costs shown by your accounting records. Where your costs are not so shown, you may use any reasonable basis for estimating your costs which will provide for fair compensation for the preparations made and work done for the terminated portion of the contract, including a reasonable profit on such preparation and work.

4. Generally your settlement proposal may include under Items 2, 3, and 4, the following:

a. COSTS - Costs incurred which are rea-

sonably necessary and are properly allocable to the terminated portion of your contract under recognized commercial accounting practices, including direct and indirect manufacturing, selling and distribution, administrative, and other costs and expenses incurred.

b. SETTLEMENT WITH SUBCONTRACTORS - Reasonable settlements of proposals of subcontractors allocable to the terminated portion of the subcontract. Copies of such settlements will be attached hereto.

c. SETTLEMENT EXPENSES - Reasonable costs of protecting and preserving termination inventory in your possession and preparing your proposal.

d. PROFIT - A reasonable profit with respect to the preparations you have made and work you have actually done for the terminated portion of your contract. No profit should be included for work which has not been done, nor shall profit be included for settlement expenses, or for settlement with subcontractors.

5. If you use this form, your total charges being proposed (line 5), must be less than \$10,000. The Government has the right to examine your books and records relative to this proposal, and if you are a subcontractor, your customer must be satisfied with your proposal.

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[68 FR 17762, Apr. 5, 2004]